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August 27, 1998

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OUR FILE NO.  
25101.74560

**VIA MESSENGER**

EX PARTE OR LATE FILED

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Notice of Ex Parte Contact  
CC Docket No. 96-128/RM-9273

Dear Ms. Salas:

On August 26, 1998, Mark Stachiw, General Counsel of AirTouch Paging, Susan J. Bahr, of Blooston Mordkofsky Jackson & Dickens on behalf of Radiofone, Inc., Patrick Campbell, of Paul Weiss Rifkind Wharton & Garrison on behalf of PageMart Wireless, Inc., Robert L. Hoggarth of the Personal Communications Industry Association, and the undersigned on behalf of AirTouch Paging, met with Geraldine A. Matise, Leslie J. Selzer, and Martin L. Schwimmer of the Common Carrier Bureau's Network Services Division and Greg Lipscomb of the Common Carrier Bureau's Enforcement Division. The purpose of the meeting was to discuss the pending petition for rulemaking, RM-9273, filed by AirTouch Paging. A copy of materials provided at the meeting, which summarize the topics discussed, is attached hereto.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, submitted herewith are an original and one copy of this notice for inclusion in the above-captioned proceedings.

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OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
August 27, 1998  
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Very truly yours,

A handwritten signature in black ink, appearing to read "E. Ashton Johnston", with a long horizontal flourish extending to the right.

E. Ashton Johnston  
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

c: Ms. Geraldine A. Matisse, Esq. (by hand delivery)  
Mr. Greg Lipscomb, Esq. (by hand delivery)  
Mr. Martin L. Schwimmer, Esq. (by hand delivery)  
Mr. Leslie J. Selzer (by hand delivery)

WDC-94927v1

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IN THE MATTER OF  
PETITION FOR RULEMAKING  
TO ESTABLISH A DEDICATED NXX CODE FOR  
TOLL-FREE CALLS PLACED FROM PAYPHONES  
RM-9273

**PRESENTATION IN SUPPORT OF  
THE ESTABLISHMENT AND IMPLEMENTATION  
OF A DEDICATED DIALING CODE FOR  
TOLL-FREE CALLS PLACED FROM PAYPHONES**

AIRTOUCH PAGING  
PAGEMART WIRELESS, INC.  
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION  
RADIOFONE, INC.

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AUGUST 26, 1998

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### **THE PROPOSAL.**

- The Commission would dedicate either an entire NPA code (preferably an 8XX code) or a range in an existing NPA. Callers would deposit coins in order to complete calls to these numbers. This proposal does not disturb the Commission's existing compensation scheme and has received widespread support.
- Toll-free subscribers and payphone users thus would have several options:
  - (1) Subscribe to a traditional toll-free number and incur per-call payphone charges passed through by the carrier. IXCs would continue to compensate PSPs for payphone calls involving the dialing of traditional toll-free numbers (800, 888).
  - (2) Subscribe to a traditional toll-free number, but block calls from payphones and thereby avoid incurring pass-through charges.
  - (3) Subscribe to an alternative toll-free number that would allow the subscriber to receive calls without a payphone surcharge, because the calling party would pay the PSP's local coin rate directly.
  - (4) Subscribe to both traditional and alternative toll-free numbers and block calls, either selectively or completely, to traditional toll-free numbers placed from payphones.
- Callers using an alternative toll-free number would continue to avoid paying long-distance toll charges.
- PSPs would be fully and immediately compensated for every call as required by the Telecom Act.

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AUGUST 26, 1998

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**SUBSTANTIAL DEMAND EXISTS FOR THE PROPOSED ALTERNATIVE.**

- All consumers have an interest in using payphones to complete calls to toll-free numbers.
- Toll-free number subscribers, resellers, prepaid calling card service providers, and paging and message service providers and their customers, strongly support the proposal.
  - AirTouch, MobileMedia, PageMart, Radiofone, and SkyTel together have more than 2 million customers who rely on toll-free numbers and Personal Identification Numbers. Although the Commission allows the pass through of payphone compensation charges to customers, with respect to customers using PINs to access message services, service providers cannot do so because they do not receive sufficient information to match calls with specific customers.
- Nearly all IXC's and others who advocate a caller-pays PSP compensation system for all calls placed from payphones have not opposed the more limited system proposed in RM-9273.

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**A DIALING CODE THAT GUARANTEES BOTH PAYPHONE CALL COMPLETION  
AND PSP COMPENSATION SERVES THE PUBLIC INTEREST.**

- Certainty — about whether a call can be completed, about who is responsible for payment, and about whether the PSP will be compensated — is in the best interest of all parties.
- Confusion and uncertainty are the unintended consequences of the present compensation system.
- Presently, when a toll-free subscriber requests that an IXC block payphone-originated calls, the caller is likely to experience one of two situations (assuming that PSPs and IXCs have implementing blocking technology and that calls can be blocked):
  - (1) The call may not go through — and the caller is given no information about why the call could not be completed. The caller may know that the toll-free subscriber has blocked payphone calls, but is just as likely to think he or she misdialed, or that the number is no longer in service.
  - (2) The caller may hear an intercept message stating the call did not go through. Some carriers are using their standard intercept message — “We are sorry, your call cannot be completed from a payphone at this time,” or “The number you have reached is not working”. Again, the caller will have no information about why the call could not be completed, or about alternatives (i.e., that the call was blocked because it was from a payphone, but that the call could be completed from a non-payphone).

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**A DIALING CODE THAT GUARANTEES BOTH PAYPHONE CALL COMPLETION  
AND PSP COMPENSATION SERVES THE PUBLIC INTEREST (CONTINUED).**

- Establishing an alternative to the existing alternatives avoids uncertainty and confusion.
  - Toll-free subscribers will not have to rely on call blocking in order to avoid incurring excessive payphone charges or charges that cannot be recouped.
  - Callers will be able to complete calls to toll-free numbers placed from payphones.
  - PSPs will be fairly compensated immediately.
  - The proposal is more efficient from a network perspective.
  - Carriers will have additional service options that will increase competition for customers. In contrast, call blocking discourages payphone use and impairs the development and proliferation of 800 services — directly, through uncompleted calls, and indirectly, due to consumer uncertainty about whether a toll-free call from a payphone can be completed.
  - Carriers can control their payphone compensation obligations without depriving callers of the ability to make toll-free calls from payphones.
- Congressional and Commission goals will be served by creating choices for consumers and carriers.

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AUGUST 26, 1998

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### **THERE ARE NO SUBSTANTIAL OBSTACLES TO IMPLEMENTING THE PROPOSAL.**

- The Commission has exclusive jurisdiction over numbering, 47 U.S.C. § 251(e)(1), including authority to determine whether a new toll-free code or range therein should be assigned. *See Toll Free Service Access Codes*, 12 FCC Rcd 11162, 11164 (1997); NPA Allocation Plan and Assignment Guidelines, § 3.5.
- Numbers are available.
  - There are 13 General Purpose NPA codes beginning with "8" that have not been assigned (829, 836, 837, 842, 851, 852, 854, 859, 871, 873, 874, 875, 878). Four additional NPA Toll Relief Codes beginning with "8" are reserved for future toll-free services (822, 833, 844, 866).
  - An 8XX number is not mandatory; not all NPA codes that begin with "8" are toll-free numbers (e.g., 880, 881, 882). 9XX General Purpose Codes, Easily Recognizable Codes (e.g., 766), and other reserved codes (e.g., "37X" and "96X") also are available. Any potential customer confusion about numbers could be alleviated by using an NPA code that begins with some other digit, and will be addressed by the education of customers by carriers, as has been the case historically for all numbering changes.
- Programming of new NXX codes is routine; the record contains no evidence of any significant technical or administrative barriers to implementing the proposal.
- The proposal does not violate the Act. First, it does not encompass toll-free access numbers used to reach pre-subscribed carriers. Second, the alternative NXX numbers would not be widely understood to be or advertised as being completely free to the caller. In any event, the Commission should exercise its forbearance authority to the extent it believes any provision of law could bar implementation of the proposal.